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Attorneys for Defendants
Fuisz Pharma LLC, Richard C. Fuisz,
and Joseph M. Fuisz

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

THERANOS, INC. and ELIZABETH
HOLMES,

Plaintiffs,

v.

FUISZ PHARMA LLC, JOHN R. FUISZ,
RICHARD C. FUISZ, and JOSEPH M.
FUISZ,

Defendants.

Case No. 5:12-cv-03323-PSG

**STIPULATION TO DISMISS PATENT
CLAIM AND COUNTERCLAIM WITHOUT
PREJUDICE**

Date Comp. Filed: October 26, 2011

FUISZ PHARMA, LLC,
Counterclaimant,

v.

THERANOS, INC,

Counter-Defendant.

Case No. 5:11-cv-05236-PSG

STIPULATION OF DISMISSAL WITHOUT PREJUDICE WITH RESPECT TO U.S.
PATENT NO. 7,824,612

Plaintiff Elizabeth Holmes and plaintiff and counter-defendant Theranos, Inc. (“Theranos”) (collectively “Plaintiffs”), on the one hand, and defendant and counterclaimant Fuisz Pharma LLC (“Fuisz Pharma”) and defendants Richard M. Fuisz and Joseph R. Fuisz (collectively “Defendants”), on the other, pursuant to Fed. R. Civ. P. 41 (a)(2), hereby stipulate and jointly move for an order: (1) dismissing without prejudice all claims brought by Fuisz Pharma against Theranos with respect to U.S. Patent 7,824,612 (“the ‘612 Patent”), brought as a counterclaim by Fuisz Pharma in Case No. 5:12-cv-03323-PSG; and (2) dismissing without prejudice all claims brought by Fuisz Pharma against Theranos with respect to the ‘612 Patent, brought as a claim by Fuisz Pharma in Case No. 5:11-cv-05236-PSG.

The parties shall bear their own costs, expenses and attorneys’ fees with respect to these claims. The Court shall retain jurisdiction to enforce the provisions of the parties’ Agreement.

IT IS SO STIPULATED.

Dated:

BANIE & ISHIMOTO LLP

By /s/ David Banie

JENNIFER L. ISHIMOTO
DAVID BANIE

COUNSEL FOR DEFENDANTS FUISZ
PHARMA LLC, RICHARD C. FUISZ, AND
JOSEPH M. FUISZ

Dated:

BOIES, SCHILLER & FLEXNER LLP

By /s/ Michael D. Jay

MICHAEL D. JAY

COUNSEL FOR PLAINTIFFS THERANOS,
INC. AND ELIZABETH HOLMES

PURSUANT TO STIPLUATION, IT IS SO ORDERED.

DATED: _____, 2013.

THE HONORABLE PAUL S. GREWAL
UNITED STATES MAGISTRATE JUDGE

GENERAL ORDER ATTESTATION

I hereby attest that I obtained concurrence in the filing of this document from each of the other signatories on this e-filed document.

Dated: March 8, 2013

/s/ David Banie

DAVID BANIE
COUNSEL FOR DEFENDANTS FUISZ
PHARMA LLC, RICHARD C. FUISZ,
AND JOSEPH M. FUISZ